

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAFAR AMIRI, et al.,

Plaintiffs,

v.

U.S. CITIZENSHIP AND  
IMMIGRATION SERVICES, et al.,

Defendants.

Case No. 2:23-cv-01938-KJM-JDP (PS)

ORDER

On April 9, 2024, the magistrate judge filed findings and recommendations, which were served on the parties, and which contained notice that any objections to the findings and recommendations were to be filed within fourteen days. No objections were filed.

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) (“[D]eterminations of law by the magistrate judge are reviewed de novo by both the district court and [the appellate] court . . .”). Having reviewed the file, the court finds the findings and recommendations to be supported by the record.


In determining whether to dismiss a case for failure to comply with a court order and/or failure to prosecute, the court must weigh the following factors: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and

(5) the availability of less drastic alternatives.” *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (citation omitted) (applying standard for dismissal based on failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986) (same standard for dismissal based on failure to prosecute). The court has considered the factors and finds they weigh in favor of dismissal. Although the public policy favoring disposition of cases on their merits weigh against dismissal, the other four factors weigh in favor of dismissal. First, plaintiffs’ lack of prosecution has delayed resolution of this case. Second, plaintiffs’ lack of response to the magistrate judge’s order to show cause and the lack of objections to the findings and recommendations indicate plaintiffs have effectively abandoned this case and the court cannot wait indefinitely for plaintiffs to respond or continue to expend scarce judicial resources on an abandoned case. Third, there is a risk of prejudice to defendants in requiring them to continue defending against this action when it appears plaintiffs have abandoned their case. Moreover, “[t]he law presumes injury from unreasonable delay.” *Anderson v. Air W., Inc.*, 542 F.2d 522, 524 (9th Cir. 1976). Finally, the court finds less drastic alternatives are not available—the magistrate judge warned plaintiffs that failure to comply with the court’s order may result in sanctions, including dismissal. In light of plaintiffs’ effective abandonment of this case and lack of response to court orders the court finds dismissal is proper.

Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations filed April 9, 2024, are ADOPTED;
2. This action is dismissed for failure to prosecute, failure to comply with the District’s Local Rules, and failure to comply with court orders;
3. Defendants’ motion to dismiss, ECF No. 11, is denied as moot; and
4. The Clerk of Court is directed to close the case.

DATED: August 19, 2024.

  
CHIEF UNITED STATES DISTRICT JUDGE

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